



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

August 16, 1989

Honorable Chet Edwards  
Chairman, Nominations Senate  
Texas State Senate  
P. O. Box 12068  
Austin, Texas 78711

LO-89-64

Dear Senator Edwards:

By letter of August 9, 1989, you ask whether recent decisions of the Public Utility Commission are consistent with Public Util. Comm'n v. Houston Lighting & Power Co. 748 S.W.2d 439 (Tex. 1987), in particular with the Texas Supreme Court's holding that ratepayers could only be held accountable for the actual tax expenses incurred by a utility.

The Public Utility Regulatory Act provides for judicial review of the commission's decisions. V.T.C.S. art. 1446c, § 69. The question you ask has been raised in judicial appeals of rate orders issued by the commission. See City of El Paso v. Public Util. Comm'n, No. 468686 (Dist. Ct. of Travis County); GTE South West v. Public Util. Comm'n, No. 406115 (Dist. Ct. of Travis County, 126th Judicial Dist. of Texas); Gulf States Util. v. Public Util. Comm'n, No. 447502 (Dist. Ct. of Travis County, 250th Judicial Dist. of Texas); Office of Public Util. Counsel v. Public Util. Comm'n, No. 468853 (Dist. Ct. of Travis County).

It is the policy of this office to decline to give Attorney General Opinions on questions that are before the courts. See, e.g., Attorney General Opinions MW-205 (1980); V-291 (1947); Letter Advisory No. 142 (1977). Accordingly, we will not address your question.

Very truly yours,

  
Rick Gilpin  
Chairman  
Opinion Committee

RG/lcd

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